

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JESSIE JEROME LEE,

Plaintiff,

v.

WAYNE COUNTY, *et al.*,

Defendants.

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Case No. 11-10209

Arthur J. Tarnow

United States District Judge

Michael Hluchaniuk

United States Magistrate Judge

**REPORT AND RECOMMENDATION**  
**MOTION TO DISMISS (Dkt. 49)**

On January 18, 2011, plaintiff filed a prisoner civil rights action against defendants, Wayne County and the City of Detroit and various employees and agents of these entities. (Dkt. 1). On April 26, 2011, the City of Detroit defendants filed a motion to dismiss the complaint on the grounds of failure to state a claim and statute of limitations. (Dkt. 9). This matter was referred to the undersigned for all pretrial proceedings by District Judge Arthur J. Tarnow on April 27, 2011. (Dkt. 10). On January 19, 2012, the undersigned recommended that defendants' motion be granted because plaintiff's claims are barred by the statute of limitations. (Dkt. 28). This recommendation was adopted by the District Court. (Dkt. 30). On April 17, 2012, the undersigned recommended that the motion to dismiss filed by defendant Wayne County be granted for the same

reason, and that the unserved and unidentified defendants be dismissed as well. (Dkt. 42). This recommendation was also adopted. (Dkt. 47).

Now, the remaining defendants have filed a similar motion to dismiss. (Dkt. 49). In the view of the undersigned, the claims against the remaining defendants should be dismissed for the same reasons set forth in the January 19, 2012 report and recommendation, given that nothing in the complaint suggests that the claims against these defendants should be analyzed differently.

For these reasons, the undersigned **RECOMMENDS** that defendants' motion to dismiss be **GRANTED** and that the remainder of plaintiff's complaint be **DISMISSED** with prejudice.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule

72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: October 25, 2012

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I certify that on October 25, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Joseph G. Rogalski and John A. Schapka, and I certify that I have mailed by United States Postal Service the foregoing pleading to the plaintiff, a non-ECF participant, at the following address: Jesse Jerome Lee, #209293, COOPER STREET CORRECTIONAL FACILITY, 3100 Cooper Street, Jackson, MI 49201.

s/Tammy Hallwood  
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